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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 939,330	08 24 2001	Alfred Kersch	L&L-10078	3872

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LERNER AND GREENBERG, P.A.  
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Hollywood, FL 33022-2480

EXAMINER

FULLER, ERIC B

ART UNIT	PAPER NUMBER
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1762

DATE MAILED 12 19 2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/939,330

Applicant(s)

KERSCH ET AL.

Examiner

Eric B Fuller

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

Claim 6 is objected to because of the following informalities: "Perowskite" should be "Perovskite". Appropriate correction is requested.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation of "providing the auxiliary substance to essentially include the reaction products" is confusing. For examination purposes "to essentially include" is interpreted to mean the equivalent of "comprises".

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application

published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Vaartstra (US 6,159,855).

Vaartstra teaches a process of forming ferroelectric or perovskite films by chemical vapor deposition (column 7, lines 45-55). Water vapor may be used as a reactant gas (column 11, lines 5-10), which reads on applicant's "auxiliary gas". Water has a dipole moment and, according to the applicant's specification on page 10, lines 15-20, has the property required by claim 1. The water vapor is fed by an external supply source that is a storage container (figure 1, ref. 19). The carrier gases, precursor gases, and water vapor are all fed into the reaction chamber through a showerhead (column 12, lines 20-26). The substrate is mounted opposite the showerhead and a pump is used to exhaust the reaction chamber (figure 1, ref. 42, 46).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaartstra (US 6,159,855) as applied to claims 1 and 7 above, and further in view of Arvidson (US 5,118,485).

Vaartstra teaches the limitations of claims 1 and 7, as shown above, but fails to teach using a recycle stream to circulate gas from the exit of the chamber to the inlet. However, Arvidson teaches that it is well known to recover unused reactant that has passed through a CVD process and recycle it back to the inlet streams so that there is less waste (column 2, lines 44-68). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to recycle elements of the exhaust in the process taught by Vaartstra with the expectation of achieving less waste. To use a valve to control the flow of the recycle stream would have been additionally obvious.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Du et al. (US 6,248,394 B1), Uhlenbrock et al. (US 6,271,131 B1), and Okada et al. (US 4,792,463) all are relied upon as being pertinent to the applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B Fuller whose telephone number is (703) 308-6544. The examiner can normally be reached on Mondays through Thursdays.

Application/Control Number: 09/939,330  
Art Unit: 1762

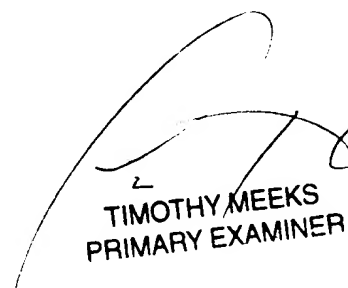
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck, can be reached at (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



EBF  
December 16, 2002



TIMOTHY MEEKS  
PRIMARY EXAMINER